

1 **SETTLEMENT AGREEMENT**

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3 IT IS HEREBY STIPULATED, by and between Plaintiff Robert Lewis (“Plaintiff”),
4 individually and on behalf of all others similarly situated, on the one hand, and Defendants IMERYS
5 Filtration Minerals, Inc. and IMERYS Performance Minerals Americas, Inc. (“Defendants”) on the other
6 hand, that this action is hereby compromised and settled pursuant to the terms and conditions set forth in
7 this Settlement and Release (“Agreement,” “Settlement,” or “Stipulation of Settlement”).

8 **DEFINITIONS**

9 1. “Action” means the putative class and representative action entitled *ROBERT LEWIS, as*
10 *an individual and on behalf of all others similarly situated, Plaintiff, v. IMERYS FILTRATION*
11 *MINERALS, INC and IMERYS PERFORMANCE MINERALS AMERICAS, INC*, Santa Barbara County
12 Superior Court, Case No. 22CV04874, alleging minimum wage violations, overtime wage violations, meal
13 period violations, rest period violations, waiting time penalties, wage statement penalties, violations of the
14 California Business and Professions Code section 17200, and Private Attorneys General Act (“PAGA”).

15 2. “Class Counsel” means Fletcher W. Schmidt, Matthew K. Moen, Susan J. Perez, and
16 Paul Haines of the Haines Law Group, APC.

17 3. “Class Counsel Award” means the Court-approved attorneys’ fees for Class Counsel’s
18 litigation and resolution of the Action (not to exceed one-third [33 1/3%] of the Maximum Settlement
19 Amount), and the Court-approved costs incurred by Class Counsel in connection with this Action (not to
20 exceed Thirty-Thousand Dollars [\$30,000.00]).

21 4. “Class Information” or “Class List” means information regarding Class Members that
22 Defendants shall in good faith compile from its records and shall be authorized by the Court to transmit
23 in a secured manner to the Settlement Administrator. Class Information shall be transmitted in
24 Microsoft Excel format and shall include each Class Member’s: (i) full name; (ii) last known mailing
25 address; (iii) Social Security number; (iv) total workweeks worked for Defendants in California during
26 the Class Period as a non-exempt employee to be determined by Settlement Administrator.

27 5. “Class Members” or “Settlement Class” means all current and former non-exempt
28 employees who worked for Defendants in California at any time during the Class Period.

1 6. “Class Period” means the period from November 12, 2017 to December 31, 2022.

2 7. “Class Representative Service Award” means the Court-approved amount to be paid to
3 Plaintiff, in addition to Plaintiff’s Individual Settlement Award, in recognition of Plaintiff’s efforts and
4 risks in prosecuting the Action (not to exceed Ten Thousand Dollars (\$10,000.00)).

5 8. “Complaint” means Plaintiff’s operative Complaint in the Action, filed on December 8,
6 2022, alleging causes of action for minimum wage violations, overtime wage violations, meal period
7 violations, rest period violations, waiting time penalties, wage statement penalties, violations of the
8 California Business and Professions Code section 17200, *et seq.*, and PAGA.

9 9. “Defendants” means IMERYS Filtration Minerals, Inc. and IMERYS Performance
10 Minerals Americas, Inc.

11 10. “Defense Counsel” means Adam Y. Siegel; Eric J. Gitig; and Jade M. Brewster of
12 Jackson Lewis P.C.

13 11. “Effective Date” means the date when all of the following events have occurred: (1) the
14 Stipulation of Settlement has been executed by all Parties, Class Counsel and Defendants’ Counsel; (2)
15 the Court has given preliminary approval to the Stipulation of Settlement; (3) the Notice of Class Action
16 Settlement has been given to the putative members of the Settlement Class, providing them with an
17 opportunity to object to the terms of this Stipulation of Settlement or opt out of the settlement; (4) the
18 Court has held a formal fairness hearing and entered a final Order and Judgment certifying the
19 Settlement Class and approving the Stipulation of Settlement; and (5) sixty-five (65) calendar days have
20 passed since the Court has entered a final Order and Judgment certifying the Settlement Class and
21 approving the Stipulation of Settlement; and (6) in the event there are objections to the Stipulation of
22 Settlement raised prior to or during the final fairness hearing which are not later withdrawn or denied,
23 the later of the following events: five (5) business days after the period for filing any appeal, writ or
24 other appellate proceeding opposing the Court’s final Order approving the Stipulation of Settlement has
25 elapsed without any appeal, writ or other appellate proceeding having been filed; or, if any appeal, writ
26 or other appellate proceeding opposing the Court’s final Order approving the Stipulation of Settlement
27 has been filed, five (5) business days after any appeal, writ or other appellate proceedings opposing the
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1 Stipulation of Settlement has been finally and conclusively dismissed with no right to pursue further
2 remedies or relief.

3 12. "Employer's Share of Payroll Taxes" means Defendants' payroll taxes, including, but not
4 limited to FICA and FUTA, on the portion of the Individual Settlement Awards that constitutes alleged unpaid
5 wages, which Defendants shall be responsible for paying in addition to the Maximum Settlement Amount.

6 13. "Final Approval Hearing" means the hearing to be conducted by the Court after the filing
7 by Plaintiff of an appropriate motion and following appropriate notice to Class Members giving Class
8 Members an opportunity to request exclusion from the Settlement Class and Settlement and to object to
9 the Settlement, at which time Plaintiff shall request that the Court finally approve the Settlement, enter
10 the Final Order and Judgment, and take other appropriate action.

11 14. "Final Order and Judgment" means the order and judgment to be entered by the Court upon
12 granting final approval of the Settlement and this Stipulation of Settlement as binding upon the Parties and
13 Participating Class Members. A proposed Final Order and Judgment shall be mutually agreed upon by the
14 Parties and submitted to the Court concurrently with Plaintiff's Motion for Final Approval of the Settlement.

15 15. "Final Report" means the report to be prepared by the Settlement Administrator (after the
16 expiration of the 180-day period in which Participating Class Members must cash/deposit their Individual
17 Settlement Award checks) regarding the distribution of the Maximum Settlement Amount, including the
18 total amount that was cashed/deposited by Participating Class Members and the total amount of any unpaid
19 residue or unclaimed or abandoned funds pursuant to California Code of Civil Procedure section 384.

20 16. "Individual PAGA Award" means the amount payable from the PAGA Payment to each
21 PAGA Employee.

22 17. "Individual Settlement Award" means the amount payable from the Net Settlement
23 Amount to each Participating Class Member.

24 18. "Maximum Settlement Amount" means the maximum amount Defendants shall have to
25 pay in connection with this Settlement, by way of a common fund, which shall be inclusive of all
26 Individual Settlement Awards to Participating Class Members, the Class Counsel Award, the Class
27 Representative Service Award, PAGA Payment, and Settlement Administration Costs. Subject to Court
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approval and the terms of this Stipulation of Settlement, the Maximum Settlement Amount Defendants shall be required to pay is SEVEN HUNDRED FIFTY-THOUSAND DOLLARS (\$750,000.00).

19. “Net Settlement Amount” means the Maximum Settlement Amount, less the Class Counsel Award, Class Representative Service Award, PAGA Payment, and Settlement Administration Costs.

20. “Notice of Objection” means a Class Member’s valid and timely submission of a written objection to the Settlement. For an objection to be valid, it must include: (a) the objector’s full name, signature, address, telephone number, and the last four digits of his/her Social Security number, (b) a written statement of all grounds for the objection accompanied by any legal support for such objection, and (c) copies of any papers, briefs, or other documents upon which the objection is based. At no time shall any of the Parties, Class Counsel, or Defense Counsel seek to solicit or otherwise encourage or discourage Class Members from submitting a Notice of Objection or filing an appeal from the Final Order and Judgment. In the discretion of the Court, any Class Member may orally object at the final approval hearing, at their own expense, without faxing or mailing a Notice of Objection. The Parties agree that there is no statutory right for any PAGA Employee to object to the PAGA Payment or Released PAGA Claims.

21. “PAGA” means the California Private Attorneys’ General Act of 2004, California Labor Code §§ 2698, *et seq.*

22. “PAGA Employees” means those Class Members who worked as non-exempt employees for Defendants in California during the PAGA Period.

23. “PAGA Payment” means the amount of FIFTY-THOUSAND DOLLARS (\$50,000.00), subject to Court approval, to be paid from the Maximum Settlement Amount for satisfaction of Plaintiff’s and PAGA Employees’ claims under PAGA.

24. “PAGA Period” means the period from November 12, 2020 through December 31, 2022.

25. “Participating Class Members” means Plaintiff and all other Class Members who do not submit a valid and timely Request for Exclusion.

26. “Parties” means Plaintiff and Defendants.

27. “Plaintiff” means Robert Lewis.

28. “Preliminary Approval Order” means the order to be issued by the Court approving and authorizing the mailing of the Settlement Notice by the Settlement Administrator, setting the date of the

1 Final Approval Hearing and granting preliminary approval of the Settlement set forth in this Stipulation
2 of Settlement, among other things. A proposed Preliminary Approval Order shall be mutually agreed
3 upon by the Parties and submitted to the Court concurrently with Plaintiff's Motion for Preliminary
4 Approval of the Settlement.

5 29. "Released Claims" includes all claims under state, federal or local law, whether statutory,
6 common law or administrative law, based on the factual allegations set forth in the operative Complaint, or
7 which could have been pled in the operative Complaint based on the factual allegations therein, including
8 but not limited to claims for minimum wage violations (Labor Code §§ 558, 1182.12, 1194, 1194.2, 1197),
9 failure to pay overtime wages (Labor Code §510), meal period violations (Labor Code §§ 226.7, 512,
10 558), rest period violations (Labor Code §§ 226.7, 512, 558), wage statement violations (Labor Code §
11 226, *et seq.*), waiting time penalties (Labor Code §§ 201-203), unfair competition and all other alleged
12 violations of the California Business and Professions Code section 17200, *et seq.*, that arose during the
13 Class Period.

14 30. "Released PAGA Claims" includes alleged violations of PAGA, based on the underlying
15 Released Claims or Plaintiff's PAGA Notice to the Labor and Workforce Development Agency
16 ("LWDA"), or which could have been pled in the operative Complaint in the Action based on the factual
17 allegations therein, including, but not limited to, claims seeking civil penalties under PAGA for minimum
18 wage violations (Labor Code §§ 558, 1182.12, 1194, 1194.2, 1197), failure to pay overtime wages (Labor
19 Code §510), meal period violations (Labor Code §§ 226.7, 512, 558), rest period violations (Labor Code
20 §§ 226.7, 512, 558), wage statement violations (Labor Code § 226, *et seq.*), and waiting time penalties
21 (Labor Code §§ 201-203), that arose during the PAGA Period.

22 31. "Released Parties" means Defendants and all their present and former parent companies,
23 subsidiaries, divisions, related or affiliated companies, shareholders, officers, directors, employees,
24 agents, attorneys, insurers, successors and assigns, and any individual or entity which could be liable for
25 any of the Released Claims, and Defendants' counsel of record in the Action.

26 32. "Request for Exclusion" means a written statement submitted by a Class Member indicating
27 a request to be excluded from the Settlement. The Request for Exclusion must be in writing and must: (a)
28 be signed by the Class Member; (b) contain the name, address, telephone number, and the last four digits of

1 the Social Security number of the Class Member requesting exclusion; (c) clearly state that the Class
2 Member does not wish to be included in the Settlement; (d) be returned by fax or mail to the Settlement
3 Administrator at the specific address and/or facsimile number and be postmarked or faxed on or before the
4 Response Deadline. The date of the fax or postmark on the return mailing envelope will be the exclusive
5 means to determine whether a Request for Exclusion has been timely submitted. A Class Member who
6 does not request exclusion from the Settlement will be deemed a Participating Class Member and will be
7 bound by all terms of the Settlement if the Settlement is granted final approval by the Court. No later than
8 ten (10) calendar days after the Response Deadline, the Settlement Administrator shall provide counsel for
9 the Parties a complete list of all Class Members who submitted a timely and valid Request for Exclusion.
10 The Parties agree that there is no statutory right for any PAGA Employees to request exclusion from the
11 PAGA Released Claims, and they will receive a portion of the PAGA Payment and remain bound by the
12 PAGA Released Claims even if they submit a Request for Exclusion.

13 33. "Response Deadline" means the deadline by which Class Members must postmark or fax
14 to the Settlement Administrator a valid Request for Exclusion, objection, or Workweek Dispute. The
15 Response Deadline will be sixty (60) calendar days from the initial mailing of the Settlement Notices by
16 the Settlement Administrator unless the 60th day falls on a Sunday, state or federal holiday, in which
17 case the Response Deadline will be extended to the next day on which the U.S. Postal Service is open.
18 Under no circumstances, however, will the Administrator have the authority to extend the deadline for
19 Class Members to submit a Request for Exclusion or objection to the settlement.

20 34. "Settlement" means the final and complete disposition of the Action pursuant to this
21 Stipulation of Settlement.

22 35. "Settlement Administrator" or "Administrator" means CPT Group, Inc., or another third-
23 party class action settlement administrator agreed to by the Parties and approved by the Court for
24 purposes of administering this settlement. The Parties each represent that they will not have any
25 financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement
26 Administrator that could create a conflict of interest.

27 36. "Settlement Administration Costs" means the reasonable costs and fees of administering
28 the Settlement to be paid from the Maximum Settlement Amount, including, but not limited to:

(i) translating, printing, mailing and re-mailing (if necessary) of Settlement Notices to Class Members in English and Spanish; (ii) preparing and submitting to Participating Class Members and government entities all appropriate tax filings and forms; (iii) computing the amount of and distributing Individual Settlement Awards, the Class Representative Service Award, the Class Counsel Award; (iv) processing and validating Requests for Exclusion (if any); (v) establishing a Qualified Settlement Fund, as defined by the Internal Revenue Code; (vi) calculating and remitting to the appropriate government agencies all employer and employee payroll tax obligations arising from the Settlement and preparing and submitting filings required by law in connection with the payments required by the Settlement; (vii) transmitting uncashed Individual Settlement Awards to the California State Controller's Unclaimed Property Fund; and (viii) preparing and providing the notice regarding the Settlement required under the Class Action Fairness Act.

37. "Settlement Notice" means the Notice of Class Action Settlement, substantially in the form attached as **Exhibit A**, which shall be subject to Court approval and which the Settlement Administrator shall mail to each Class Member in English and Spanish explaining the terms of this Stipulation of Settlement.

38. "Workweeks" means the number of weeks worked by each Class Member for Defendants as a non-exempt employee in California during the Class Period, based on Defendants' records. In the absence of fraud or gross negligence, Defendants' records shall be presumed accurate.

39. "Workweek Dispute" means a written statement that a Class Member disputes the number of Workweeks listed on his/her Settlement Notice. Any such Workweek Dispute must be faxed or mailed to the Settlement Administrator by the Response Deadline. The date of the fax or postmark on the mailing envelope will be the exclusive means to determine whether a Workweek Dispute has been timely submitted. A valid Workweek Dispute must be in writing and contain: (i) the Class Member's full name, signature, address, telephone number, and the last four digits of his/her Social Security number; (ii) the number of Workweeks the Class Member contends is correct; and (iii) any evidence supporting his/her contention. The Workweeks identified for each Class Member in the Class List will be presumed to be correct unless a particular Class Member proves otherwise to the Settlement Administrator by credible evidence. All Workweek disputes will be resolved and decided by the

1 Settlement Administrator. However, if the Settlement Administrator and the Parties cannot agree on a
2 resolution, the Parties will submit the Workweek Dispute to the Court for a final determination.

3 40. “Workweek Value” means the value of each compensable Workweek, as determined by
4 the formula set forth herein.

5 RECITALS

6 41. Procedural History.

7 a. On November 12, 2021, Plaintiff filed a putative Class Action Complaint against
8 Defendants in the Santa Barbara Superior Court entitled *ROBERT LEWIS, as an individual and on*
9 *behalf of all others similarly situated, Plaintiff, v. IMERYS FILTRATION MINERALS, INC., a Delaware*
10 *corporation; IMERYS PERFORMANCE MINERALS AMERICAS, INC., a Delaware corporation; and*
11 *DOES 1 through 100, Defendants*, Case No. 21CV04587, which sets forth the following five causes of
12 action: (1) failure to pay all minimum wages; (2) meal period violations; (3) rest period violations; (4)
13 waiting time penalties; and (5) unfair competition (the “Original Complaint”). Plaintiff brought this
14 action on behalf of himself and various classes consisting of “all Defendants’ current and former non-
15 exempt employees in California ... during the four years immediately preceding the initiation of this
16 action through the present.”

17 b. Also on November 12, 2021 Plaintiff electronically submitted a letter to the California
18 Labor and Workforce Development Agency (“LWDA”) and to Defendants via certified mail, pursuant
19 to PAGA, to notify the LWDA and Defendants of Defendants’ alleged violations of the Labor Code
20 with respect to Plaintiff and other Class Members.

21 c. On or around January 18, 2022, Plaintiff filed a First Amended Class and Representative
22 Action Complaint against Defendants in the Santa Barbara Superior Court. In addition to the five causes of
23 action brought by Plaintiff in the original complaint (on behalf of himself and the Putative Class), Plaintiff
24 added a sixth cause of action for civil penalties under the Private Attorneys General Act (Labor Code §
25 2698 *et seq.*).

26 d. On February 4, 2022, Defendants removed the Santa Barbara County action to Federal
27 Court (Case No. 2:22-cv-00785-MCS-KS) pursuant to the Class Action Fairness Act.

1 e. On April 19, 2022, the parties entered into a Tolling Agreement applicable to all claims
2 pled by Plaintiff, after which the Federal Court action was dismissed without prejudice.

3 f. On September 26, 2022, the Parties participated in a full-day mediation before Steven G.
4 Mehta, Esq., a well-respected wage and hour class action mediator, at which time the Parties reached
5 agreement on the material terms of a proposed class action and PAGA settlement that would fully
6 resolve the Action, which they memorialized in a signed Memorandum of Understanding on September
7 30, 2022, made subject to the Parties entering into a more comprehensive written settlement agreement.

8 42. On December 8, 2022, Plaintiff filed the operative Complaint against Defendants alleging
9 minimum wage violations, overtime wage violations, meal period violations, rest period violations,
10 waiting time penalties, wage statement penalties, violations of the California Business and Professions
11 Code section 17200, and Private Attorneys General Act.

12 43. Benefits of Settlement to Plaintiff and the Class Members. Plaintiff and Class Counsel
13 recognize the expense and length of continued proceedings necessary to litigate Plaintiff's disputes in
14 the Action through trial and through any possible appeals. Plaintiff has also taken into account the
15 uncertainty and risks of the outcome of further litigation, and the difficulties and delays inherent in such
16 litigation. Plaintiff and Class Counsel are also aware of the burdens of proof necessary to establish
17 liability for the claims asserted in the Action, both generally and in response to Defendants' defenses
18 thereto, and the difficulties in establishing damages, penalties, restitution and other relief sought in the
19 Action. Plaintiff and Class Counsel also have taken into account Defendants' agreement to enter into a
20 settlement that confers substantial benefits upon the Class Members. Based on the foregoing, Plaintiff
21 and Class Counsel have determined that the Settlement set forth in this Stipulation of Settlement is fair,
22 adequate, and reasonable and is in the best interests of all Class Members.

23 44. Defendants' Reasons for Settlement. Defendants have concluded that further defense of
24 the Action would be protracted and expensive. Substantial amounts of Defendants' time, energy, and
25 resources have been, and unless this Settlement is completed, shall continue to be, devoted to the
26 defense of the claims asserted by Plaintiff. Defendants have also taken into account the risks of further
27 litigation in reaching their decision to enter into this Settlement. Even though Defendants contend they
28 are not liable for any of the claims alleged by Plaintiff in the Action and deny any liability whatsoever,

Defendants nonetheless, have agreed to settle in the manner and upon the terms set forth in this Stipulation of Settlement and to fully and finally put to rest the claims alleged in this Action. Defendants have asserted and continue to assert that the claims alleged by Plaintiff have no merit and do not give rise to any liability, damages, restitution, penalties, or other payments. This Stipulation of Settlement is a compromise of disputed claims. Nothing contained in this Stipulation of Settlement, no documents referred to herein, and no action taken to carry out this Stipulation of Settlement, shall be construed or used as an admission by or against Defendants as to the merits or lack thereof of the claims asserted in the Action. Defendants contend that they have complied with all applicable state, federal and local laws. In the event this Settlement does not obtain final approval, Defendants retain all rights they have to defend themselves in this matter and to take any actions in defense of themselves that are available to Defendants.

CLASS CERTIFICATION

45. Solely for purposes of settling the Action, and not for purposes of class certification should the Settlement not be approved or for any other reason, the Parties stipulate and agree that the requisites for establishing class certification with respect to the Settlement Class have been met and are met. More specifically, for purposes of settlement only, the Parties stipulate and agree that:

a. The Settlement Class is ascertainable and so numerous as to make it impracticable to join all Class Members;

b. There are common questions of law and fact including, but not limited to, the following:

i. Whether Defendants compensated Class Members the statutory minimum wage for all hours worked;

ii. Whether Defendants compensated Class Members for all overtime hours worked;

iii. Whether Defendants provided meal periods to Class Members and/or paid penalties to Class Members for missed meal periods;

iv. Whether Defendants provided rest periods to Class Members and/or paid penalties to Class Members for missed rest periods;

1 v. Whether Defendants furnished Class Members with accurate itemized
2 wage statements; and

3 vi. Whether Defendants paid timely final wages to Class Members who
4 separated from their employment with Defendants.

5 c. The Class Representative's claims are typical of the claims of the Settlement Class;

6 d. The Class Representative and Class Counsel will fairly and adequately protect
7 the interests of the Settlement Class;

8 e. The prosecution of separate actions by individual members of the Settlement
9 Class would create the risk of inconsistent or varying adjudications, which would establish
10 incompatible standards of conduct; and

11 f. Questions of law and fact common to the members of the Settlement Class
12 predominate over any questions affecting any individual Class Member, and a class action is superior
13 to other available means for the fair and efficient adjudication of the controversy.

14 46. **Should this Settlement not be approved or be terminated, all stipulations set forth in**
15 **the immediately preceding Paragraph 45 shall be null and void and shall not be admissible for any**
16 **purpose whatsoever.**

17 **TERMS OF SETTLEMENT**

18 NOW THEREFORE, in consideration of the mutual covenants, promises, and agreements set
19 forth herein, the Parties agree, subject to the Court's approval, as follows:

20 47. Binding Settlement. This Settlement shall bind the Parties and all Participating Class
21 Members, subject to the terms and conditions hereof and the Court's approval.

22 48. Tax Liability. The Parties make no representations as to the tax treatment or legal effect of
23 the payments specified herein, and Class Members are not relying on any statement or representation by the
24 Parties, Class Counsel or Defense Counsel in this regard. Settlement payments made to eligible Class
25 Members will be attributed as 20% wages and 80% interest and penalties. The Class Members are
26 responsible for their share of the payroll taxes, which shall be deducted from their individual settlement
27 payments. Defendants are responsible for the employer share of payroll taxes separate and apart from
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the Maximum Settlement Amount, and these taxes will not be deducted from the Maximum Settlement Amount.

49. Participating Class Members understand and agree that they shall be responsible for the payment of all taxes and penalties assessed on the payments specified herein, and shall hold the Parties, Class Counsel and Defense Counsel free and harmless from and against any claims resulting from treatment of such payments as non-taxable, including the treatment of such payments as not subject to withholding or deduction for payroll and employment taxes. Class Counsel understand and agree that they shall be responsible for the payment of all taxes and penalties assessed on the payments specified herein as “Class Counsel Award”, and shall hold the Parties and Defense Counsel free and harmless from and against any claims resulting from the tax treatment of such payment.

50. Circular 230 Disclaimer. The Parties acknowledge and agree that (1) no provision of this Stipulation of Settlement, and no written communication or disclosure between or among the Parties, Class Counsel or Defense Counsel and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his, her, or its own, independent legal and tax counsel for advice (including tax advice) in connection with this Stipulation of Settlement, (b) has not entered into this Stipulation of Settlement based upon the recommendation of any other party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or adviser to any other party to avoid any tax penalty that may be imposed on the acknowledging party; and (3) no attorney or adviser to any other party has imposed any limitation that protects the confidentiality of any such attorney’s or adviser’s tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Stipulation of Settlement.

51. Preliminary Approval of Settlement. Class Counsel will reserve a date for a hearing on Plaintiff’s Motion for Preliminary Approval to take place at a time mutually agreed to by the Parties so that the Parties may request provisional certification of the Settlement Class for settlement purposes only and the setting of a Final Approval Hearing. The Parties agree to work diligently and cooperatively to

1 have this Settlement presented to the Court for preliminary approval. The proposed Order granting
2 Plaintiff's Motion for Preliminary Approval shall be mutually agreed to by the Parties prior to Plaintiff
3 submitting the proposed Order to the Court. Plaintiff will also provide Defendants with the opportunity
4 to review and comment upon drafts of the notice of motion and memorandum of points and authorities
5 to be filed in connection with his Motion for Preliminary Approval at least three (3) days prior to filing
6 such motion with the Court.

7 52. Release of Claims.

8 a. Release by All Participating Class Members. All Participating Class Members,
9 including Plaintiff, shall be deemed to have released their respective Released Claims against the Released
10 Parties upon the date on which the payment of the Maximum Settlement Amount is made by Defendants.
11 Plaintiff and Class Members who do not Request Exclusion will be deemed to have fully, finally and forever
12 released, settled, compromised, relinquished, and discharged with respect to all of the Released Parties for
13 any and all Released Claims. The Settlement Class and each Class Member who has not submitted a valid
14 Request for Exclusion, fully releases and discharges the Released Parties for the Released Claims.

15 b. Additional Release by All PAGA Employees. In addition to the release of Released
16 Claims against the Released Parties made by all Participating Class Members, upon the date on which the
17 payment of the Maximum Settlement Amount is made by Defendants, all PAGA Employees shall be
18 deemed to have released their respective PAGA Released Claims against the Released Parties.

19 c. Additional Release and Waiver of Claims by Plaintiff. In addition to the release of
20 Released Claims against the Released Parties made by all Participating Class Members, as set forth above,
21 Plaintiff, in his individual capacity, agrees to release the Released Parties from any and all claims, known
22 and unknown, under federal, state and/or local law, statute, ordinance, regulation, common law, or other
23 source of law, arising as of the date of execution of this Agreement including but not limited to claims
24 arising from or related to his employment with Defendants and his compensation while an employee of
25 Defendants ("Plaintiff's Released Claims"). Plaintiff's Released Claims include, but are not limited to, all
26 of the Released Claims and any other claims arising under the California Labor Code; any claim arising
27 out of the California common law of contract; the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, and
28 federal common law; all claims for lost wages and benefits, emotional distress, retaliation, punitive

1 damages, and attorneys' fees and costs arising under federal, state, or local laws for discrimination,
2 harassment, and wrongful termination, including but not limited to, 42 U.S.C. section 1981, Title VII of
3 the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment
4 Act, the California Fair Employment and Housing Act, the California Labor Code, and the law of contract
5 and tort. This release excludes the release of claims not permitted by law.

6 Plaintiff's Released Claims include all claims, whether known or unknown. Even if Plaintiff
7 discovers facts in addition to or different from those that he now knows or believes to be true with respect
8 to the subject matter of Plaintiff's Released Claims, those claims will remain released and forever barred.
9 To effect a full and complete general release as described above, Plaintiff expressly waives and
10 relinquishes all rights and benefits of section 1542 of the Civil Code of the State of California, and does so
11 understanding and acknowledging the significance and consequence of specifically waiving section 1542.
12 Section 1542 of the Civil Code of the State of California states as follows:

13 **A general release does not extend to claims that the creditor or releasing**
14 **party does not know or suspect to exist in his or her favor at the time of**
15 **executing the release and that, if known by him or her, would have**
16 **materially affected his or her settlement with the debtor or released party.**

17 Thus, notwithstanding the provisions of section 1542, and to implement a full and complete release
18 and discharge of the Released Parties, Plaintiff expressly acknowledges this Stipulation of Settlement is
19 intended to include in its effect, without limitation, all claims Plaintiff does not know or suspect to exist in
20 Plaintiff's favor at the time of signing this Stipulation of Settlement, and that this Stipulation of Settlement
21 contemplates the extinguishment of any such claims. Plaintiff warrants that Plaintiff has read this
22 Stipulation of Settlement, including this waiver of California Civil Code section 1542, and that Plaintiff has
23 consulted with or had the opportunity to consult with counsel of Plaintiff's choosing about this Stipulation
24 of Settlement and specifically about the waiver of section 1542, and that Plaintiff understands this
25 Stipulation of Settlement and the section 1542 waiver, and so Plaintiff freely and knowingly enters into this
26 Stipulation of Settlement. Plaintiff further acknowledges that Plaintiff later may discover facts different
27 from or in addition to those Plaintiff now knows or believes to be true regarding the matters released or
28 described in this Stipulation of Settlement, and even so Plaintiff agrees that the releases and agreements

1 contained in this Stipulation of Settlement shall remain effective in all respects notwithstanding any later
2 discovery of any different or additional facts. Plaintiff expressly assumes any and all risk of any mistake in
3 connection with the true facts involved in the matters, disputes, or controversies released or described in this
4 Stipulation of Settlement or with regard to any facts now unknown to Plaintiff relating thereto.

5 53. Settlement Administration.

6 a. Production of Class List. Within fifteen (15) calendar days of the Court signing
7 the Preliminary Approval Order, Defendants shall provide the Settlement Administrator with the Class
8 List for purposes of mailing the Settlement Notices to Class Members. The Settlement Administrator
9 shall not be permitted to share any Class Information included in the Class List with Plaintiff, Class
10 Counsel, or any other individual or entity absent express approval by Defendants or Defense Counsel.

11 b. Notice by First Class U.S. Mail. Upon receipt of the Class List, the Settlement
12 Administrator shall perform a search based on the National Change of Address Database maintained by
13 the United States Postal Service to update and correct any known or identifiable address changes.
14 Within fourteen (14) calendar days after receiving the Class List from Defendants, as provided herein,
15 the Settlement Administrator shall mail copies of the Settlement Notice to all Class Members via regular
16 First Class U.S. Mail. The Settlement Administrator shall exercise its best judgment to determine the
17 current mailing address for each Class Member. The address identified by the Settlement Administrator
18 as the current mailing address shall be presumed to be the most current mailing address for each Class
19 Member. The Parties agree that this procedure for notice provides the best notice practicable to Class
20 Members and fully complies with due process.

21 c. Opt-Out Period: Class Members shall have sixty (60) days to submit a Request for
22 Exclusion or submit a Notice of Objection, as described herein. PAGA Employees cannot opt-out of or
23 object to the settlement of the PAGA claims.

24 d. Undeliverable Settlement Notices. Any Settlement Notice returned to the
25 Settlement Administrator as non-deliverable on or before the Response Deadline shall be re-mailed to the
26 forwarding address affixed thereto within five (5) calendar days of receipt of the returned Settlement
27 Notice by the Settlement Administrator. If no forwarding address is provided, the Settlement
28 Administrator shall attempt to determine a correct address by the use of skip-tracing, or other type of

1 automated search, using the name, address and/or Social Security number of the Class Member involved,
2 and shall then perform a re-mailing to the Class Member whose Settlement Notice was returned as non-
3 deliverable within five (5) calendar days of receipt of the returned Settlement Notice by the Settlement
4 Administrator, assuming another mailing address is identified by the Settlement Administrator. Class
5 Members who are sent a re-mailed Settlement Notice shall have their Response Deadline, including their
6 deadline to submit a Workweek Dispute, extended by ten (10) calendar days from the date the Settlement
7 Administrator re-mails the Settlement Notice. If these procedures are followed, notice to Class Members
8 shall be deemed to have been fully satisfied, and if the intended recipient of the Settlement Notice does not
9 receive the Settlement Notice, the intended recipient shall nevertheless remain a Class Member and shall
10 be bound by all terms of the Settlement and the Final Order and Judgment.

11 e. Defective Requests for Exclusion. If a Class Member's Request for Exclusion is
12 defective under the requirements of this Stipulation of Settlement, that Class Member will be given an
13 opportunity to cure the defects, as follows: (i) the Settlement Administrator will mail the Class Member
14 a cure letter within three (3) business days of receiving the defective Request for Exclusion to advise the
15 Class Member that his/her submission is defective and that the defect must be cured to render the
16 Request for Exclusion valid; (ii) the Class Member will have until either the Response Deadline or seven
17 (7) calendar days from the date of the cure letter, whichever date is later, to postmark or fax a revised
18 Request for Exclusion. If the revised Request for Exclusion is not postmarked or faxed within that
19 period, it will be deemed untimely and invalid.

20 f. Determination of Individual Settlement Awards. The Settlement Administrator
21 shall determine the eligibility for, and the amounts of, each Individual Settlement Award under the terms
22 of this Stipulation of Settlement. The Settlement Administrator's determination of the eligibility for and
23 amount of each Individual Settlement Award shall be binding upon the Class Members and the Parties. In
24 the absence of fraud or gross negligence, Defendants' records shall be presumed accurate.

25 g. Disputes Regarding Administration of Settlement. All workweek disputes will be
26 submitted to the Settlement Administrator with input from the Parties for resolution, but any final decisions
27 which cannot be resolved by the Settlement Administrator and the Parties shall be submitted to the Court
28 which will have the final decision on all workweek disputes and said decision will be non-appealable.

1 h. Monitoring and Reviewing Settlement Administration. The Parties have the right
2 to monitor and review the administration of the Settlement to verify that the monies allocated under the
3 Settlement are distributed in the correct amount, as provided for in this Stipulation of Settlement.

4 i. Certification Reports Regarding Individual Settlement Award Calculations. The
5 Settlement Administrator will provide Defense counsel and Class Counsel a weekly report which certifies: (a)
6 the number of Class Members who have submitted valid Requests for Exclusion or objections; and (b) whether
7 any Class Member has submitted a challenge to any information contained in the Settlement Notice, including
8 but not limited to the number of Class Members who have submitted a Workweek Dispute. Additionally, the
9 Settlement Administrator will provide to Defense counsel and Class Counsel any updated reports regarding
10 the administration of the Settlement Agreement as needed or requested. The Settlement Administrator shall
11 not identify the name, address, or Social Security Number of any Class Member to Plaintiff, Class Counsel,
12 or any other individual or entity absent express approval by Defendants or Defense Counsel.

13 j. Best Efforts. The Parties agree to use their best efforts to carry out the terms of
14 this Settlement.

15 54. Funding of Maximum Settlement Amount. The Maximum Settlement Amount shall be
16 paid by Defendants in one lump sum payment within fourteen (14) calendar days after the Effective Date.
17 Defendants shall provide the Maximum Settlement Amount to the Settlement Administrator in any
18 feasible manner, including, but not limited to, by way of a wire transfer. If this Settlement is not finally
19 approved by the Court in full, or is terminated, rescinded, canceled or fails to become effective for any
20 reason, or if the Effective Date does not occur, then no portion of the Maximum Settlement Amount shall
21 be paid.

22 55. Escalator Clause. Defendants represented that there were approximately 24,429
23 workweeks worked by the 192 Settlement Class Members as of the date of mediation. If, at the time of
24 preliminary approval, the actual number of aggregate workweeks worked by the Settlement Class
25 Members exceeds this figure by more than 10% (i.e., if there are 26,872 or more aggregate workweeks
26 worked by the Settlement Class Members), Defendants shall either, at their sole discretion (i) increase
27 the Maximum Settlement Amount on a proportional basis (i.e., if there was a 12% increase in the
28 number of aggregate workweeks, Defendants shall increase the Maximum Settlement Amount by 12%),

or (ii) elect to cut off the Settlement Class as of the date the total workweeks worked by Class Members during the Class Period exceeds 10% of the 24,429 estimate.

56. Allocation of Maximum Settlement Amount.

a. Individual Settlement Awards. Class Members shall not be required to submit a claim in order to receive a share of the Net Settlement Amount, and no portion of the Maximum Settlement Amount shall revert to Defendants or result in an unpaid residue. Individual Settlement Awards shall be paid by the Settlement Administrator from the Net Settlement Amount after receipt of the Maximum Settlement Amount from Defendants, in accordance with the terms and formulas set forth herein. Individual Settlement Award payments shall be mailed by the Settlement Administrator by regular First Class U.S. Mail to each Participating Class Member's last known mailing address within fifteen (15) calendar days after Defendants provide the Settlement Administrator with the Maximum Settlement Amount. Prior to mailing the Individual Settlement Awards, the Settlement Administrator shall perform a search based on the National Change of Address Database maintained by the United States Postal Service to update and correct any known or identifiable address changes.

i. Each Participating Class Member's Individual Settlement Award shall be calculated solely by the Settlement Administrator as follows:

(1) Five percent (5%) of the Net Settlement Amount shall be designated as the "Wage Statement Amount." Each Participating Class Member who worked for Defendants at any time from November 12, 2020 to December 31, 2022, shall receive a portion of the Wage Statement Amount proportionate to the number of Workweeks that he or she worked during the aforementioned time period.

(2) Five percent (5%) of the Net Settlement Amount shall be designated as the "Waiting Time Amount." The Waiting Time Amount shall be distributed in equal, pro-rata shares to each Participating Class Member who separated their employment from Defendants at any time from November 12, 2018 to December 31, 2022.

(3) The Settlement Administrator will then calculate the Workweek Value for Participating Class Members by dividing the remainder of the Net Settlement Amount by the total number of Workweeks for all Participating Class Members during the Class Period, then

1 multiplying by the amount of individual workweeks, resulting in a value for each week worked by the
2 Class Members during the Class Period. To determine each Class Member's estimated Individual
3 Settlement Award, the Settlement Administrator will multiply the Workweek Value by the number of
4 Workweeks worked by each Participating Class Member, and add it to any entitlement from the Wage
5 Statement Amount and/or Waiting Time Amount. All Participating Class Members will be entitled to
6 payment for at least one Workweek.

7 (4) Should any of the following occur, the Settlement Administrator will
8 proportionately increase the estimated Individual Settlement Award of each Participating Class Member to
9 ensure that the entire Net Settlement Amount is distributed to Participating Class Members: (i) any Class
10 Members submit timely and valid, or otherwise accepted, Requests for Exclusion following the provision of
11 Settlement Notices and expiration of the Response Deadline; (ii) the Court approves a Class Representative
12 Service Award in an amount less than that requested by Plaintiff, as detailed herein; (ii) the Court approves a
13 Class Counsel Award in an amount less than that requested by Plaintiff, as detailed herein; and/or (iii) the Court
14 approves Settlement Administration Costs in an amount less than that requested by Plaintiff, as detailed herein.

15 ii. Individual Settlement Award payments shall be made by check and shall
16 be made payable to each Participating Class Member as set forth in this Stipulation of Settlement.

17 iii. For tax purposes, Individual Settlement Awards shall be allocated as
18 follows: one hundred percent (100%) of the Wage Statement Amount shall be allocated as alleged unpaid
19 non-wage penalties and interest and not subject to payroll tax withholdings; one hundred percent (100%)
20 of the Waiting Time Amount shall be allocated as alleged unpaid non-wage penalties and interest and not
21 subject to payroll tax withholdings; and for the remainder of the Net Settlement Amount, twenty percent
22 (20%) shall be allocated as alleged unpaid wages subject to all applicable tax withholdings; and eighty (80
23 percent) shall be allocated as alleged unpaid interest and penalties not subject to payroll tax withholdings.

24 The Settlement Administrator shall issue an IRS Form W-2 to each Participating Class Member for the
25 portion of each Individual Settlement Award payment allocated as alleged unpaid wages and subject to all
26 applicable tax withholdings. The Settlement Administrator shall issue an IRS Form 1099 to each
27 Participating Class Member for the portion of each Individual Settlement Award payment allocated as
28 alleged unpaid non-wage penalties and interest and not subject to payroll tax withholdings. The

1 Settlement Administrator shall calculate the amount of the Employer's Share of Payroll Taxes and shall
2 remit and report the applicable portions of the payroll tax payment to the appropriate taxing authorities in a
3 timely manner. Defendants will be responsible for paying their share of the Payroll Taxes and this amount
4 will not be deducted from the Maximum Settlement Amount.

5 iv. Any Individual Settlement Award check issued by the Settlement
6 Administrator to Participating Class Members will be valid and negotiable for one hundred eighty (180)
7 calendar days from the date it is issued. After the expiration of the 180-day period, the Settlement
8 Administrator will distribute the total amount of any unpaid residue or unclaimed funds to the Controller of
9 the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code section
10 1500, *et seq.*, in the name of the Participating Class Member to whom the check was issued, until such time
11 that such Participating Class Members claim their property. After this process is completed, the Settlement
12 Administrator will prepare the Final Report regarding the distribution of the Maximum Settlement Amount,
13 including the total amount that was cashed/deposited by Participating Class Members and the total amount
14 of any unpaid residue or unclaimed or abandoned funds that was distributed to the State Controller.

15 v. In the event a Participating Class Member fails to cash/deposit his or her
16 Individual Settlement Award check, the Participating Class Member shall nevertheless remain bound by
17 the Settlement. Defendants shall fully discharge their obligations to those Class Members to whom they
18 will pay an Individual Settlement Award through the mailing of a Settlement check, regardless of
19 whether such checks are actually received and/or negotiated by Class Members. Any check that is not
20 negotiated within one hundred eighty (180) days of mailing to a Class Member will not be re-issued and
21 will be distributed to the Controller of the State of California to be held in the name of the Participating
22 Class Member to whom the check was issued.

23 vi. All monies received by Participating Class Members under the Settlement
24 which are attributable to wages shall constitute income to such Participating Class Members solely in the
25 year in which such monies actually are received by the Participating Class Members. It is expressly
26 understood and agreed that the receipt of Individual Settlement Awards shall not entitle any Participating
27 Class Member to additional compensation or benefits under any collective bargaining agreement or under
28 any bonus, contest or other compensation or benefit plan or agreement in place during the period covered

1 by the Settlement, nor shall it entitle any Participating Class Member to any increased pension and/or
2 retirement, or other deferred compensation benefits. It is the intent of the Parties that Individual Settlement
3 Awards provided for in this Stipulation of Settlement are the sole payments to be made by Defendants to
4 Participating Class Members in connection with this Settlement, with the exception of Plaintiff, and that the
5 Participating Class Members are not entitled to any new or additional compensation or benefits as a result
6 of having received the Individual Settlement Awards. Furthermore, the receipt of Individual Settlement
7 Awards by Participating Class Members shall not, and does not, by itself establish any general, special, or
8 joint employment relationship between and among the Participating Class Member(s) and Defendants.

9 b. Class Representative Service Award. For the purposes of this Settlement only,
10 the Parties agree to the designation of Plaintiff Robert Lewis as Class Representative. In recognition of
11 his time and effort in bringing and presenting the Action, and for agreeing to the general release of all
12 claims, including a waiver of California Civil Code section 1542, Plaintiff shall request a Class
13 Representative Service Award not to exceed Ten Thousand Dollars (\$10,000.00), provided Plaintiff
14 signs this Stipulation of Settlement. Plaintiff's request for such Class Representative Service Award
15 shall be subject to approval from the Court. The Court-approved Class Representative Service Award
16 shall be paid to Plaintiff from the Maximum Settlement Amount and shall be mailed by the Settlement
17 Administrator to Plaintiff on the same date that the Settlement Administrator mails Individual
18 Settlement Award payments to Participating Class Members. The Class Representative Service Award
19 will be in addition to Plaintiff's Individual Settlement Award paid pursuant to the Settlement. The
20 Settlement Administrator shall issue an IRS Form 1099 to Plaintiff for his Class Representative Service
21 Award. Plaintiff shall be solely and legally responsible to pay any and all applicable taxes on his Class
22 Representative Service Award and shall hold harmless Defendants, Class Counsel and Defense Counsel
23 from any claim or liability for taxes, penalties, or interest arising as a result of payment of the Class
24 Representative Service Award. Any amount requested by Plaintiff for the Class Representative Service
25 Award and not awarded by the Court shall become part of the Net Settlement Amount and shall be
26 distributed to Participating Class Members as part of the Individual Settlement Awards.

27 c. Class Counsel Award. Class Counsel shall be entitled to request attorneys' fees in
28 an amount not to exceed one-third (33 1/3%) of the Maximum Settlement Amount, which amounts to Two

1 Hundred and Fifty-Thousand Dollars (\$250,000). In addition, Class Counsel shall also be entitled to
2 request an award of costs associated with Class Counsel's prosecution of the Action not to exceed Thirty
3 Thousand Dollars (\$30,000.00). Class Counsel's request for such attorneys' fees and costs shall be subject
4 to approval from the Court. Any amount requested by Plaintiff for the Class Counsel Award and not
5 awarded by the Court shall become part of the Net Settlement Amount and shall be distributed to
6 Participating Class Members as part of the Individual Settlement Awards. The Court-approved Class
7 Counsel Award shall be paid to Class Counsel from the Maximum Settlement Amount and shall be mailed
8 by the Settlement Administrator to Class Counsel on the same date that the Settlement Administrator mails
9 Individual Settlement Award payments to Participating Class Members. Class Counsel shall be solely and
10 legally responsible to pay all applicable taxes on the Class Counsel Award. Class Counsel shall provide
11 the Settlement Administrator with properly completed and signed copies of IRS Form W-9 in order for the
12 Settlement Administrator to process the Class Counsel Award approved by the Court. The Settlement
13 Administrator shall issue an IRS Form 1099 to Class Counsel for the Class Counsel Award.

14 d. PAGA Payment. Subject to Court approval, the Parties agree that the amount of
15 Fifty-Thousand Dollars (\$50,000.00) will be paid from the Maximum Settlement Amount in satisfaction
16 of Plaintiff's and PAGA Employees' claims under PAGA. Pursuant to PAGA, seventy five percent
17 (75%) or Thirty-Seven Thousand Five-Hundred Dollars (\$37,500.00) of this sum will be paid to the
18 LWDA and twenty five percent (25%) or Twelve-Thousand Five-Hundred Dollars (\$12,500.00) will be
19 distributed to the PAGA Employees (*i.e.*, those Class Members who worked for Defendants as non-
20 exempt employees during the PAGA Period). The Settlement Administrator will use the following
21 formula to calculate the Individual PAGA Awards for the PAGA Employees: Individual PAGA Award
22 = [total value of PAGA Payment to be distributed to PAGA Employees, *i.e.*, \$12,500.00] × [pay periods
23 worked by the individual PAGA Employee during the PAGA Period ÷ total pay periods worked by all
24 PAGA Employees during the PAGA Period]. All portions of the PAGA Payment paid to the PAGA
25 Employees shall be allocated as alleged penalties and not subject to payroll tax withholdings, for which
26 the Settlement Administrator shall issue an IRS Form 1099. Any Court-awarded PAGA Payments will
27 be paid to the Labor and Workforce Development Agency and PAGA Employees from the Maximum
28 Settlement Amount and shall be mailed by the Settlement Administrator to the Labor and Workforce

1 Development Agency and PAGA Employees on the same date that the Settlement Administrator mails
2 Individual Settlement Award payments to Participating Class Members.

3 e. Settlement Administration Costs. The Settlement Administration fees and
4 expenses, which are estimated not to exceed Eight-Thousand Five-Hundred Dollars (\$8,500.00), shall be
5 paid from the Maximum Settlement Amount. Prior to Plaintiff filing a Motion for Final Approval of the
6 Settlement, the Settlement Administrator shall provide the Parties with a statement detailing the Settlement
7 Administration Costs to date. The Parties agree to cooperate in the Settlement Administration process and
8 to make all reasonable efforts to control and minimize Settlement Administration Costs.

9 i. The Parties each represent they do not have any financial interest in the
10 Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could
11 create a conflict of interest.

12 ii. The Settlement Administrator shall keep the Parties timely apprised of the
13 performance of all Settlement Administrator responsibilities required by the Settlement. The Settlement
14 Administrator shall be authorized to establish a Qualified Settlement Fund (“QSF”) pursuant to IRS
15 rules and regulations in which the Maximum Settlement Amount shall be placed and from which
16 payments required by the Settlement shall be made.

17 57. Payroll Taxes. In accordance with this Settlement and to the fullest extent possible, the
18 Maximum Settlement Amount shall resolve, satisfy and completely extinguish all of Defendants’ liability
19 with respect to the Class Members, except that Defendants shall solely be responsible for the Employer’s
20 Share of Payroll Taxes on the portion of the Individual Settlement Awards that constitutes alleged unpaid
21 wages. Upon the transfer of the Maximum Settlement Amount and the Employer’s Share of Payroll Taxes,
22 Defendants shall have no further payment or defense obligation whatsoever with respect to any claims
23 covered by this Settlement made or asserted by any person or entity in connection with the Class Members.

24 58. Final Settlement Approval Hearing and Entry of Final Order and Judgment. Following
25 expiration of the Response Deadline, a Final Approval Hearing shall be conducted by the Court for the
26 Court to determine whether to grant final approval of the Settlement, including determining the amounts
27 properly payable for the: (i) Class Counsel Award; (ii) Class Representative Service Award; (iii) PAGA
28 Payment; and (iv) Settlement Administration Costs. Prior to the Final Approval Hearing, the Settlement

1 Administrator shall provide a written report or declaration to the Parties describing the process and results
2 of the administration of the Settlement to date, which report or declaration shall be filed by Plaintiff with the
3 Court prior to the Final Approval Hearing. The Parties agree to work diligently and cooperatively to have
4 this Settlement presented to the Court for final approval. The proposed Order granting Plaintiff's Motion
5 for Final Approval shall be mutually agreed to by the Parties prior to Plaintiff submitting the proposed
6 Order to the Court. Plaintiff will also provide Defendants with the opportunity to review and comment
7 upon drafts of the notice of motion and memorandum of points and authorities to be filed in connection
8 with his Motion for Final Approval at least three (3) days prior to filing such motion with the Court. The
9 Settlement Administrator shall be responsible for posting notice of the Final Order and Judgment to the
10 Settlement Class on the Settlement Administrator's website.

11 59. Duties of the Parties Prior to Court Approval. The Parties shall promptly submit this
12 Settlement Agreement to the Court in support of Plaintiff's Motion for Preliminary Approval and
13 determination by the Court as to its fairness, adequacy, and reasonableness. Promptly upon execution of this
14 Settlement Agreement, the Parties shall apply to the Court for the entry of an order scheduling a fairness
15 hearing on the question of whether the proposed settlement, including payment of the Class Counsel
16 Award, Class Representative Service Award, PAGA Payment, and Settlement Administration Costs,
17 should be finally approved as fair, reasonable and adequate as to the members of the Settlement Class.

18 As part of Plaintiff's Motion for Preliminary Approval, Plaintiff shall also apply to the Court for
19 the entry of an Order as follows:

- 20 a. Certifying the Settlement Class for settlement purposes only;
- 21 b. Approving, as to form and content, the proposed Settlement Notice;
- 22 c. Approving the manner and method for Class Members to object or request
23 exclusion from the Settlement, as described herein and within the Settlement Notice;
- 24 d. Directing the mailing of the Settlement Notices to Class Members, by first class mail;
25 and
- 26 e. Preliminarily approving the Settlement subject only to the objections of Class
27 Members and final review by the Court;
- 28

As part of Plaintiff's Motion for Final Approval, Class Counsel will submit a proposed Final Order of Approval and Judgment:

a. Approving the Settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;

b. Approving the Class Counsel Award, Class Representative Service Payment to Plaintiff, PAGA Payment, and Settlement Administration Costs;

c. Setting a date when the Parties shall submit the Final Report regarding the distribution of the Maximum Settlement Amount pursuant to California Code of Civil Procedure section 384, and, if necessary a date for a final accounting hearing following its receipt of the Final Report;

d. Entering judgment in this Action.

60. Revocation of Settlement by Defendants. If ten percent (10%) or more of the total Class Members timely exclude themselves and/or if the combined Workweeks worked by Class Members who timely exclude themselves amounts to ten percent (10%) or more of the total Workweeks worked by all Class Members, Defendants may, at their election and in their sole discretion, rescind the Settlement and all actions taken in furtherance of it will thereby be null and void. Defendants must exercise this right of rescission in writing, by certified or electronic mail to Class Counsel, within thirty (30) calendar days of the Response Deadline. Any Settlement Administration Costs already incurred by the Settlement Administrator shall be paid by Defendants in event the Settlement is terminated under this provision. At no time will Defendants or Defense counsel, or their agents or representatives, seek to solicit or otherwise encourage any Class Member to opt-out of the Settlement Class.

61. Nullification of Settlement. In the event: (i) the Court does not enter the Preliminary Approval Order; (ii) the Court does not grant final approval of the Settlement; (iii) the Court does not enter the Final Order and Judgment; or (iv) the Settlement does not become final for any other reason, this Stipulation of Settlement shall be rendered null and void, any order or judgment entered by the Court in furtherance of this Settlement shall be treated as void from the beginning and this Stipulation of Settlement and any documents related to it shall not be used by any Class Member or Class Counsel to support any claim or request for class certification in the Action, and shall not be used in any other civil, criminal or administrative action against Defendants or any of the other Released Parties. Should the Settlement not

1 become final for any reason, the Parties will request that the Court reopen proceedings within thirty (30)
2 calendar days, the Parties and any monies required to be paid under this Settlement shall be returned to their
3 respective statuses as of the date and time immediately prior to the execution of this Stipulation of
4 Settlement, and the Parties shall proceed in all respects as if this Stipulation of Settlement had not been
5 executed, except that any Settlement Administration Costs already incurred by the Settlement Administrator
6 shall be split evenly amongst the Parties (unless Defendants elect to revoke the Settlement, as specified in
7 Paragraph 60 above, in which case any Settlement Administration Costs already incurred by the Settlement
8 Administrator shall be paid by Defendants). In the event an appeal is filed from the Court's Final Order and
9 Judgment, or any other appellate review is sought, administration of the Settlement shall be stayed pending
10 final resolution of the appeal or other appellate review and the stay shall only be lifted if the end result of
11 the appeal or other proceeding is that the terms of this settlement agreement are upheld.

12 62. Plaintiff's Waiver of Right to Be Excluded. Plaintiff agrees that by signing this
13 Settlement Agreement, he will be bound by the terms herein, including the general release described in
14 Paragraph 52 above. Plaintiff further agrees that, upon signing this Settlement Agreement, he will not
15 request to be excluded from this Settlement and that any such request for exclusion by Plaintiff will be
16 void and of no force or effect.

17 63. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
18 certification for purposes of this Settlement only; and either Party may appeal any court order that
19 materially alters the Settlement Agreement's terms.

20 64. No Admission by Defendants. Defendants deny all claims alleged in this Action and deny
21 all wrongdoing whatsoever by Defendants. Neither this Stipulation of Settlement, nor any of its terms and
22 conditions, nor any of the negotiations connected with it, is a concession or admission, and none shall be
23 used against Defendants as an admission or indication with respect to any claim of any fault, concession, or
24 omission by Defendants or that class certification is proper under the standard applied to contested
25 certification motions. The Parties stipulate and agree to the certification of the proposed Settlement Class for
26 settlement purposes only. The Parties further agree that this Stipulation of Settlement will not be admissible
27 in this or any other proceeding as evidence that either (i) a class action should be certified or (ii) Defendants
28

are liable to Plaintiff or any Class Member, other than according to the terms of this Stipulation of Settlement.

65. Publicity.

a. Prior to the Filing of Plaintiff's Motion for Preliminary Approval. Class Representative and Class Counsel will not make any public disclosures of any kind regarding the Settlement, this Stipulation of Settlement, or the Confidential Memorandum of Understanding executed by Class Counsel and Defense Counsel on September 30, 2022, including but not limited to postings on Class Counsel's websites and postings on any social media sites/outlets. However, Class Counsel is authorized to make disclosures as necessary for the purposes of obtaining preliminary approval of, and effectuating the terms of, the Settlement. Such disclosures are limited to court filings, submission of the Settlement to the LWDA, and communications with the Settlement Administrator for purposes of effectuating the terms of the Settlement. Class Counsel will take all steps necessary to ensure the Class Representative is aware of, and will encourage him to adhere to, the restriction against any public disclosures regarding the Settlement, this Stipulation of Settlement, and the Confidential Memorandum of Understanding executed by Class Counsel and Defense Counsel on September 30, 2022 until after the Motion for Preliminary Approval is filed. Further, Class Counsel will not include, reference or use the Settlement for any marketing or promotional purposes, or for attempting to influence business relationships at Defendants' locations, either before or after the Motion for Preliminary Approval is filed.

b. Following the Court's Order Granting Preliminary Approval. Class Representative and Class Counsel will not initiate any communications with the media or third parties, except for the LWDA and the Settlement Administrator as necessary to effectuate the terms of the Settlement and the Court's orders granting preliminary approval. If contacted by the media or third parties, other than the LWDA or the Settlement Administrator, Class Representatives and Class Counsel will only discuss information publicly available and on file with the Court. Class Counsel will take all steps necessary to ensure the Class Representative is aware of, and will encourage him to adhere to, the restriction against initiating any media comment. Class Counsel further agrees not to use the Settlement or any of its terms for any marketing or promotional purposes, and, as stated above, will not include, reference or use the Settlement for any marketing or promotional purposes, or for attempting to influence business relationships

1 at Defendants' locations, either before or after the Motion for Preliminary Approval is filed. However,
2 nothing herein will restrict Class Counsel from including publicly available information regarding this
3 Settlement in future judicial submissions regarding Class Counsel's qualifications and experience.

4 66. Waiver. No waiver of any condition or covenant contained in this Settlement Agreement
5 or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or
6 constitute a further waiver by such Party of the same or any other condition, covenant, right or remedy.

7 67. Judgment and Continued Jurisdiction. Upon final approval of the Settlement by the
8 Court or after the Final Approval/Settlement Fairness Hearing, the Parties will present the Judgment to
9 the Court for its approval, pursuant to Rule 3.770 of the California Rules of Court. After entry of the
10 Judgment, the Court will have continuing jurisdiction solely for purposes of addressing: (a) the
11 interpretation and enforcement of the terms of the Settlement, (b) Settlement administration matters, and
12 (c) such post-Judgment matters as may be appropriate under court rules or as set forth in this Agreement

13 68. Exhibits and Headings. The terms of this Stipulation of Settlement include the terms set forth
14 in any attached Exhibit(s), which are incorporated by this reference as though fully set forth herein. The
15 Exhibit(s) to this Stipulation of Settlement are an integral part of the Settlement. The descriptive headings of
16 any paragraphs or sections of this Stipulation of Settlement are inserted for convenience of reference only.

17 69. Amendment or Modification. This Stipulation of Settlement may be amended or
18 modified only by a written instrument signed by counsel for all Parties or their successors-in-interest.

19 70. Entire Agreement. This Stipulation of Settlement and any attached Exhibit(s) constitute
20 the entire agreement between the Parties, and no oral or written representations, warranties, or
21 inducements have been made to Plaintiff or Defendants concerning this Stipulation of Settlement or its
22 Exhibit(s) other than the representations, warranties, and covenants contained and memorialized in this
23 Stipulation of Settlement and its Exhibit(s). No other prior or contemporaneous written or oral
24 agreements may be deemed binding on the Parties.

25 71. Authorization to Enter into Settlement Agreement. Class Counsel and Defense Counsel
26 warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this
27 Stipulation of Settlement and to take all appropriate actions required or permitted to be taken by such Parties
28 pursuant to this Stipulation of Settlement to effectuate its terms, and to execute any other documents required

1 to effectuate the terms of this Stipulation of Settlement. The Parties, Class Counsel and Defense Counsel
2 shall cooperate with each other and use their best efforts to effect the implementation of the Settlement. In
3 the event the Parties are unable to reach agreement on the form or content of any document needed to
4 implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the
5 terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement. The
6 person(s) signing this Stipulation of Settlement on behalf of Defendants represents and warrants that he/she
7 is authorized to sign this Stipulation of Settlement on behalf of Defendants. Plaintiff represents and
8 warrants that he is authorized to sign this Stipulation of Settlement and that he has not assigned any claim,
9 or part of a claim, covered by this Stipulation of Settlement to a third-party. The Parties have cooperated in
10 the drafting and preparation of this Stipulation of Settlement. Hence, in any construction made of this
11 Stipulation of Settlement, the same shall not be construed against any of the Parties.

12 72. Binding on Successors and Assigns. This Stipulation of Settlement shall be binding
13 upon, and inure to the benefit of, the successors and assigns of the Parties.

14 73. California Law Governs. All terms of this Stipulation of Settlement and the Exhibit(s) hereto
15 shall be governed by and interpreted according to the laws of the State of California, without giving effect to
16 any law that would cause the laws of any jurisdiction other than the State of California to be applied.

17 74. Counterparts. This Stipulation of Settlement may be executed in one or more counterparts.
18 All executed counterparts and each of them shall be deemed to be one and the same instrument.

19 75. This Settlement is Fair, Adequate and Reasonable. Plaintiff represents that this Settlement
20 is a fair, adequate, and reasonable settlement of the Action and he has arrived at this Settlement after
21 extensive arm's-length negotiations, taking into account all relevant factors, present and potential.

22 76. Jurisdiction of the Court. Following entry of the Final Order and Judgment, the Court
23 shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms
24 of this Stipulation of Settlement and all orders and judgments entered in connection therewith, and the
25 Parties, Class Counsel and Defense Counsel submit to the jurisdiction of the Court for purposes of
26 interpreting, implementing, and enforcing the Settlement embodied in this Stipulation of Settlement and
27 all orders and judgments entered in connection therewith.
28

1 77. Invalidity of Any Provision. Before declaring any term or provision of this Stipulation of
2 Settlement invalid, the Parties request that the Court first attempt to construe the terms or provisions
3 valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of
4 this Stipulation of Settlement as valid and enforceable. In the event the Court declares any material
5 provision of this Stipulation of Settlement invalid, the Stipulation of Settlement will be void and its
6 terms will be of no force and effect, except as otherwise agreed to by the Parties in writing.

7 78. Binding Nature of Notice of Class Action Settlement. It is agreed that, because the Class
8 Members are so numerous, it is impossible or impractical to have each Class Member execute the
9 Stipulation of Settlement. The Class Notice shall advise all Class Members of the binding nature of the
10 Settlement, and the release of Released Claims and shall have the same force and effect as if this
11 Stipulation of Settlement were executed by each Participating Class Member.

12 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily execute this Joint
13 Stipulation of Class Action and PAGA Settlement and Release between Plaintiff, on the one hand, and
14 Defendants, on the other hand, as of the date(s) set forth below:

15 Dated: 01/19/2023,


Robert Lewis (Jan 19, 2023 08:14 PST)

Plaintiff Robert Lewis

17 Dated: _____,

Defendants IMERYS Filtration Minerals, Inc. and
IMERYS Performance Minerals Americas, Inc.

19
20 By: John Carroll
Title: Treasurer

21 Approved as to form and content and as to Paragraph 65 (Publicity):
22

23 Dated: 01/19/2023,

HAINES LAW GROUP, APC

24
25 
Fletcher W. Schmidt
Matthew K. Moen
Susan J. Perez

26
27 Attorneys for Plaintiff
28 Robert Lewis

1 77. Invalidity of Any Provision. Before declaring any term or provision of this Stipulation of
2 Settlement invalid, the Parties request that the Court first attempt to construe the terms or provisions
3 valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of
4 this Stipulation of Settlement as valid and enforceable. In the event the Court declares any material
5 provision of this Stipulation of Settlement invalid, the Stipulation of Settlement will be void and its
6 terms will be of no force and effect, except as otherwise agreed to by the Parties in writing.

7 78. Binding Nature of Notice of Class Action Settlement. It is agreed that, because the Class
8 Members are so numerous, it is impossible or impractical to have each Class Member execute the
9 Stipulation of Settlement. The Class Notice shall advise all Class Members of the binding nature of the
10 Settlement, and the release of Released Claims and shall have the same force and effect as if this
11 Stipulation of Settlement were executed by each Participating Class Member.

12 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily execute this Joint
13 Stipulation of Class Action and PAGA Settlement and Release between Plaintiff, on the one hand, and
14 Defendants, on the other hand, as of the date(s) set forth below:

15 Dated: _____,

16 Plaintiff Robert Lewis

17 Dated: Jan 30, 2023,

18 Defendants IMERYS Filtration Minerals, Inc. and
IMERYS Performance Minerals Americas, Inc.

19 *John Carroll*

20 John Carroll (Jan 30, 2023 11:36 EST)

By: John Carroll

Title: Treasurer

21 Approved as to form and content and as to Paragraph 65 (Publicity):
22

23 Dated: _____,

HAINES LAW GROUP, APC

24 Fletcher W. Schmidt

25 Matthew K. Moen

26 Susan J. Perez

27 Attorneys for Plaintiff

28 Robert Lewis

1 Dated: January 30, 2023,

JACKSON LEWIS P.C.

2 

3 _____
4 Adam Y. Siegel
Eric J. Gitig
Jade M. Brewster

5
6 Attorneys for Defendants
7 IMERYS Filtration Minerals, Inc. and IMERYS
8 Performance Minerals Americas, Inc.
9

10 4879-4273-5430, v. 1
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